



STATE BOARD OF EQUALIZATION

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BETTY T. YEE
First District, San Francisco

SEN. GEORGE RUNNER (RET.)
Second District, Lancaster

MICHELLE STEEL
Third District, Orange County

JEROME E. HORTON
Fourth District, Los Angeles

JOHN CHIANG
State Controller

CYNTHIA BRIDGES
Executive Director

STATE BOARD OF EQUALIZATION MEETING
450 N Street, Room 121, Sacramento

PRELIMINARY RECORD OF BOARD ACTIONS

Tuesday, January 15, 2013

The following is a preliminary record of Board actions taken at the January 15, 2013 Sacramento Board Meeting. This is not an official record and is subject to correction or modification. The official record of the Board's actions is the minutes of the Board, which will be adopted at a subsequent meeting.

The Board's decision reflects only the issues resolved by the Board at the meeting. Issues resolved prior to the meeting are not reflected in this document.

If you would like specific information regarding items on this Preliminary Record of Board Action, please telephone Claudia Madrigal at 916-324-8261 or email: Claudia.Madrigal@boe.ca.gov. Please be advised that material containing confidential taxpayer information cannot be publicly disclosed.

Board Committee Meetings— Please see Page 10, O., Adoption of Board Committee Reports and Approval of Committee Actions, for voting results.

Board Meeting

A. Homeowner and Renter Property Tax Assistance Appeals Hearings
There are no items for this matter.

B. Corporate Franchise and Personal Income Tax Appeals Hearing

B1. Lawrence A. Gruber, Jr., 598287 - Waived Appearance

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C. Sales and Use Tax Appeals Hearings

C1a. Varuj, LLC, 538547 (EA)

C1b. Kassian, Inc., 538549 (EA)

C1c. Bistango-Irvine, 538551 (EA)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's claims denied.	Mr. Horton	Yes
	Ms. Steel	No
	Mr. Runner	No
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C2. Hardip Singh Sandhu, 533270 (KH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination. The Board ordered that the petition be submitted for decision, granting the petitioner 30 days to file supporting documents, the Department 30 days to respond, and the Appeals Division 30 days thereafter to review the parties' submissions and provide its recommendation to the Board.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

C3. Sonja M. Craighton, 558975 (KH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
No final Board determination. The Board ordered that the petition be submitted for decision, granting the petitioner 30 days to file supporting documents, the Department 30 days to respond, and the Appeals Division 30 days thereafter to review the parties' submissions and provide its recommendation to the Board.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

~~C4. Loucas Savvas Kakoullis, 571124 (CH)~~

~~C5. Eren Niazi, 482301 (GH)~~

D. Special Taxes Appeals Hearing

~~D1.a. Orange Tree Fresh Fruit & Nuts, Inc., 527196 (STF)~~

~~D1.b. Orange Tree Fresh Fruit & Nuts, Inc., 527198 (STF)~~

~~D1.c. Orange Tree Fresh Fruit & Nuts, Inc., 527202 (STF)~~

There are no items for the following matters:

E. Property Tax Appeals Hearings

F. Public Hearings

G. Tax Program Nonappearance Matters – Consent

G1. Legal Appeals Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

➤ Hearing Notices Sent – No Response

1. Khimvilaiy Som, 553335 (KH)
2. Sacramento Holistic Healing Center, 561767, 572030 (KH)
3. Chalateco Corporation, 567031 (GH)
- 4a. Keith Looney, Ryan Looney, and Sean Looney, 437814 (KH)
- 4b. Central California Railcar Repair, LLC, 458640 (KH)
5. LA E Tricolor, LLC, 559971 (CH)
6. Diana Huyenthanh Phan, 562003 (KH)

➤ Hearing Notice Sent – Appearance Waived

7. Keith Cummings, CPA, 559150 (KH)

➤ Petitions for Release of Seized Property

8. Youngkon Corporation, 627497 (STF)
9. Salim I. Qaru and Marwan Qare, 627512 (STF)

➤ Petitions for Rehearing

10. Tho Phuoc Pham, 509278 (AP)
11. Northbay Wellness Group, 526954 (JH)

G2. Franchise and Income Tax Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
No final determination on sub-item 17.	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- Hearing Notice Sent – No Response
 1. Derrick P. Landavazo, 601467
- Decisions
 2. A.K. Investment Group, LLC, 572497
 3. Ametek, Inc., 585857
 4. Raul A. Ayala, 595049
 5. Monika Barbieri, 549104
 6. Westley P. Busch and Deedra M. Busch, 576340
 7. Tena Reaves Collins, 571468
 8. Cooktec Limited Partnership, 595043
 9. Thomas A. Day and Katherine T. Day, 586991
 10. Kevin Herson, 573294
 11. Penelope J. Hilburn, 592879
 12. Janell A. Jann, 594184
 13. James E. Thompson, Inc., 569813
 14. Spencer W. Kimball, 527783
 15. Rudolph J. Laskowski, 572069
 16. Ronald Passmore, 589497
 17. ~~Pharmagenesis, Inc., 550168~~
 18. Keith Ponthieux, 576508
 19. Cynthia P. Robinette, 566380
 20. Peter Westlund and Debra A. Westlund, 563243
 21. Dixin Zheng, 575636
- Petition for Rehearing
 22. Irene C. Tritz, 592022

G3. Homeowner and Renter Property Tax Assistance Matters
 There are no items for this matter.

G4. Sales and Use Taxes Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- Redeterminations
 1. Mark Steel Corporation, 573238 (OH)
 2. Alien Technology Corporation, 446672 (GH)
 3. Fusionstorm, 613620 (OH)
 4. Arthrex, Inc., 611316 (OH)
- Relief of Penalty/Interest
 5. Mossy Nissan, Inc., 649555 (FH)
 6. Aeropostale West, Inc., 649557 (OH)
 7. OfficeMax North America, Inc., 649556 (OH)
 8. Zappos.com, Inc., 644424 (OH)
 9. Quidsi, Inc., 644420 (OH)
- Denial of Claim for Refund
 10. Aoptix Technologies, Inc., 553639 (GH)

G5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes – except not participating in sub-items 3, 6, 7, and 8.

- Credits and Cancellations
 1. Country Time R.V., Inc., 644432 (EH)
 2. Dastagir G. Omar, 639448 (EH)
- Refunds
 3. Buena Vista Home Video, 632725 (OH)
 4. Fotokem Industries, Inc., 522700 (AC)
 5. Fotokem Industries, Inc., 522771 (AC)
 6. The Disney Channel, 632726 (OH)
 7. Buena Vista Television, 634714 (OH)
 8. American Broadcasting Companies, Inc., 634718 (OH)
 9. Primary Color Systems Corp., 603638 (EA)
 10. The Regents of The University of California, 629950 (FH)
 11. Professional Hospital Supply, Inc., 601488 (EH)
 12. Siliconix Incorporated, 552489 (GH)

13. KHS, a Division of Klochner KHS, 607815 (OH)
14. Rec Solar, Inc., 610912 (GH)
15. Verenium Corporation, 538744 (FH)
16. Tesoro Refining and Marketing Company, 478413 (OH)
17. Magnolia Hi-Fi, Inc., 629959 (OH)
18. Alstom Power, Inc., 606055 (OH)
19. Save Mart Supermarkets, 631021 (KH)
20. Polydyne, Inc., 589947 (OH)
21. Balboa Thrift & Loan Association, 607372 (FH)
22. Affymetrix, Inc., 607225 (GH)
23. Infor Global Solutions (MI), Inc., 562942 (OH)
24. American Stores Company, LLC, 559120 (OH)
25. American Towers, Inc., 607369 (OH)
26. Convenience Retailers, LLC, 603349 (CH)
27. Mission Federal Credit Union, 605544 (FH)

- G6. Special Taxes Matters
There are no items for this matter.

- G7. Special Taxes Matters – Credits, Cancellations, and Refunds

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes – except not participating in sub-item 2.

➤ Refunds

1. Staples The Office Superstore, LLC, 570427 (STF)
2. The Wine Group, LLC, 630084, 642704 (STF) 'CF'

- G8. Property Tax Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Not Participating

➤ Petition for Reassessment and Penalty Abatement on Unitary Escape Assessment

1. Cricket Communications, Inc. (2762), 608381 'CF'

There are no items for the following matters:

G9. Cigarette License Fee Matters

G10. Legal Appeals Property Tax Matters

H. Tax Program Nonappearance Matters – Adjudicatory

H1. Legal Appeals Matters

➤ Case Heard Not Decided

1. Ralph Louis Tocci, 460529, 468214 (CH)

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition denied.	Mr. Horton	Yes
	Ms. Steel	No
	Mr. Runner	No
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

H2. Franchise and Income Tax Matters

➤ Decisions

1. James A. Haverkamp, 550350

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal granted.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

2. J.N.D. Thomas Company, Inc., 563994

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal partially granted/denied.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

3. William Trevithick, 531169

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's appeal denied.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

There are no items for the following matters:

- H3. Homeowner and Renter Property Tax Assistance Matters
- H4. Sales and Use Taxes Matters
- H5. Sales and Use Taxes Matters – Credits, Cancellations, and Refunds
- H6. Special Taxes Matters
- H7. Special Taxes Matters – Credits, Cancellations, and Refunds
- H8. Property Tax Matters
 - Petition for Reassessment and Penalty Abatement on Private Railroad Car Tax
 - 1. CML Metals, Inc. (6522), 632212 'CF'

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Taxpayer's petition granted.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Not Participating

There are no items for the following matters:

- H9. Cigarette License Fee Matters
- H10. Legal Appeals Property Tax Matters

I. Tax Program Nonappearance Matters

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Not Participating

- I1. Property Taxes Matters
 - Audits
 - 1. Pay-Less Cellular, Inc. (2683) 'CF'
 - 2. Globalstar USA, LLC (2772) 'CF'
 - Unitary Land Escaped Assessment
 - 3. Pacific Gas and Electric Company (0135) 'CF'
 - 4. Los Angeles SMSA Ltd. (2532) 'CF'
 - 5. Cellco Partnership (2559) 'CF'
 - 6. AT&T Mobility, LLC (2606) 'CF'
 - 7. Sprint Telephony PCS, LP. (2720) 'CF'
 - 8. MetroPCS Communications (2733) 'CF'
 - Board Roll Change
 - 9. 2012 Board Roll of State-Assessed Property 'CF'

I2. Offer in Compromise Recommendations

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendation.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

- 1a. Mohammed Fard
- 1b. Alexe's State Jewelry, Inc.
- 2a. Adam F. Gad
- 2b. Barbara J. Sears-Gad
- 3a. Shahnaz Rehman Khan
- 3b. Ghazi Abdul Rehman Khan
- 4a. Linwood Lee Sawyer
- 4b. Mary Ellen Sawyer
- 5. Rosa Veronica Villanueva

I3. Local Tax Reallocation Matters
There are no items for this matter.

Chief Counsel Matters

There are no items for the following matters:

- J. Rulemaking
- K. Business Taxes
- L. Property Taxes
- M. Other Chief Counsel Matters

Administrative Session**N. Consent Agenda**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Approved staff recommendations.	Mr. Horton	Yes
	Ms. Steel	Yes
	Mr. Runner	Yes
	Ms. Yee	Yes
	Mr. Chiang/ Ms. Mandel	Yes

N1. Retirement Resolutions

- La Donna M. Cooper
- Eileen Frutos (Amendment)
- Frank J. Hunssinger
- Kenneth Pape
- Rudy Perez
- Rosangela M. Rosenbach
- Linda S. Sexton
- Henrique Solis

O. Adoption of Board Committee Reports and Approval of Committee Actions**O1. Legislative Committee**

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Postponed to the next Board Meeting. For details see: http://www.boe.ca.gov/legdiv/legmeetings13.htm	Mr. Horton Ms. Steel Mr. Runner Ms. Yee Mr. Chiang/ Ms. Mandel	

O2. Customer Service and Administrative Efficiency Committee

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Adopted committee report and approved the actions therein. For details see: http://www.boe.ca.gov/meetings/custsrv/custsrv13.htm	Mr. Horton Ms. Steel Mr. Runner Ms. Yee Mr. Chiang/ Ms. Mandel	Yes Yes Yes Yes Yes

O3. Business Taxes Committee

<u>DECISION</u>	<u>MEMBER</u>	<u>BOARD VOTE</u>
Postponed to the next Board Meeting. For details see: http://www.boe.ca.gov/meetings/btc2013.htm	Mr. Horton Ms. Steel Mr. Runner Ms. Yee Mr. Chiang/ Ms. Mandel	

P. Other Administrative Matters**P1. Executive Director's Report****1. CROS Project Update and Actions**

There are no items for the following matters:

P2. Chief Counsel Report**P3. Sales and Use Tax Deputy Director's Report****P4. Property and Special Taxes Deputy Director's Report****1. Fire Prevention Fee Program Update****2. Update on Embedded Software Project**

P5. Administration Deputy Director's Report

1. Headquarters Facilities Update – A general update may be provided.
2. 2013/14 Budget Update – Information on the Governor's 2013/14 Budget may be provided.

There are no items for the following matters:

P6. Technology Deputy Director's Report

P7. External Affairs Deputy Director's Report

Q. Closed Session

Adjourn

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